

AMENDED IN ASSEMBLY MAY 10, 2001

AMENDED IN ASSEMBLY APRIL 25, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1083

Introduced by Assembly Member Bates

February 23, 2001

An act to amend Sections 6450 and 6451 of the Business and Professions Code, relating to paralegals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1083, as amended, Bates. Paralegals.

Existing law defines the term “paralegal,” establishes qualifications for a paralegal, and sets forth activities that paralegals are prohibited from performing.

This bill would require that a person hold himself or herself out to be a paralegal in order to be considered a paralegal. The bill would exclude persons performing certain law-related tasks or jobs from the definition of “paralegal” if the individual in question performs in the employ of a lawyer or law firm and under the direction and supervision of a member of the State Bar.

Existing law prohibits, with specified exceptions, a paralegal from performing services for a consumer unless those services are performed under the direction and supervision of an attorney, law firm, corporation, government agency, or other entity that employs or contracts with paralegals.

This bill would make a clarifying change in those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6450 of the Business and Professions
2 Code, as added by the 1st text of Section 1 of Chapter 439 of the
3 Statutes of 2000, is amended to read:

4 6450. (a) “Paralegal” means a person who holds himself or
5 herself out to be a paralegal and who either contracts with or is
6 employed by an attorney, law firm, corporation, governmental
7 agency, or other entity and who performs substantial legal work
8 under the direction and supervision of an active member of the
9 State Bar of California, as defined in Section 6060, or an attorney
10 practicing law in the federal courts of this state, that has been
11 specifically delegated by the attorney to him or her. Tasks
12 performed by a paralegal include, but are not limited to, case
13 planning, development, and management; legal research;
14 interviewing clients; fact gathering and retrieving information;
15 drafting and analyzing legal documents; collecting, compiling,
16 and utilizing technical information to make an independent
17 decision and recommendation to the supervising attorney; and
18 representing clients before a state or federal administrative agency
19 if that representation is permitted by statute, court rule, or
20 administrative rule or regulation.

21 (b) Neither the term “paralegal” nor any provisions of this
22 chapter shall apply to any of the following persons while
23 performing the described tasks in the employ of a lawyer or law
24 firm and under the direction and supervision of an active member
25 of the State Bar of California:

26 (1) “Law clerk,” who is hereby defined as including any
27 person not licensed to practice law in California who is performing
28 law-related work while employed by a lawyer or law firm and who
29 meets one of the following:

30 (A) Is currently or was during the preceding 12 months
31 enrolled in a law school accredited by the American Bar
32 Association, the State Bar of California, or an equivalent body in
33 any jurisdiction where legal business is conducted in English.

1 (B) Has graduated from a law school, as defined in
2 subparagraph (A), during the preceding 12 months or is currently
3 registered to take the bar examination in any state within one year.

4 (C) Is licensed to practice law in any jurisdiction other than
5 California.

6 (2) “Legislative advocate,” who is hereby defined as including
7 any person engaged in legislative advocacy or related activities.

8 (3) Any person whose primary function is to perform library
9 services for a law firm or law library and who performs legal
10 reference or research or related fact gathering in the course of that
11 primary employment.

12 (4) “Case clerk,” who is hereby defined as including any
13 person who works for a lawyer or law firm performing law-related
14 work that primarily consists of file management.

15 (5) Other persons, including, but not limited to, secretaries,
16 messengers, investigators, and like positions, who, while in
17 full-time employment by a law firm or by an active member of the
18 State Bar of California, perform, in a capacity other than as a
19 paralegal, incidental paralegal work as described in subdivision (a)
20 of this section. “Incidental,” for purposes of this paragraph,
21 means that paralegal work does not consume more than 15 percent
22 of that person’s monthly work assignment hours.

23 (c) Notwithstanding subdivision (a), a paralegal shall not do
24 any of the following:

25 (1) Provide legal advice.

26 (2) Represent a client in court.

27 (3) Select, explain, draft, or recommend the use of any legal
28 document to or for any person other than the attorney who directs
29 and supervises the paralegal.

30 (4) Act as a runner or capper, as defined in Sections 6151 and
31 6152.

32 (5) Engage in conduct that constitutes the unlawful practice of
33 law.

34 (6) Contract with, or be employed by, a natural person other
35 than an attorney to perform paralegal services.

36 (7) In connection with providing paralegal services, induce a
37 person to make an investment, purchase a financial product or
38 service, or enter a transaction from which income or profit, or
39 both, purportedly may be derived.

(8) Establish the fees to charge a client for the services the paralegal performs, which shall be established by the attorney who supervises the paralegal's work. This paragraph does not apply to fees charged by a paralegal in a contract to provide paralegal services to an attorney, law firm, corporation, governmental agency, or other entity as provided in subdivision (a).

(d) A paralegal shall possess at least one of the following:

(1) A certificate of completion of a paralegal program approved by the American Bar Association.

(2) A certificate of completion of a paralegal program at, or a degree from, a postsecondary institution that requires the successful completion of a minimum of 24 semester, or equivalent, units in law-related courses and that has been accredited by a national or regional accrediting organization or approved by the Bureau for Private Postsecondary and Vocational Education.

(3) A baccalaureate degree or an advanced degree in any subject, a minimum of one year of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of this state for at least the preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks.

(4) A high school diploma or general equivalency diploma, a minimum of three years of law-related experience under the supervision of an attorney who has been an active member of the State Bar of California for at least the preceding three years or who has practiced in the federal courts of this state for at least the preceding three years, and a written declaration from this attorney stating that the person is qualified to perform paralegal tasks. This experience and training shall be completed no later than December 31, 2003.

(e) All paralegals shall be required to certify completion every three years of four hours of mandatory continuing legal education in legal ethics. All continuing legal education courses shall meet the requirements of Section 6070. Every two years, all paralegals shall be required to certify completion of four hours of mandatory continuing education in either general law or in a specialized area of law. Certification of these continuing education requirements shall be made with the paralegal's supervising attorney. The

1 paralegal shall be responsible for keeping a record of the
2 paralegal's certifications.

3 (f) A paralegal does not include a nonlawyer who provides
4 legal services directly to members of the public or a legal
5 document assistant or unlawful detainer assistant as defined in
6 Section 6400.

7 (g) If a legal document assistant, as defined in subdivision (c)
8 of Section 6400, has registered, on or before January 1, 2001, as
9 required by law, a business name that includes the word
10 "paralegal," that person may continue to use that business name
11 until he or she is required to renew registration.

12 (h) This section shall remain in effect only until January 1,
13 2004, and as of that date is repealed, unless a later enacted statute,
14 which is enacted before January 1, 2004, deletes or extends that
15 date.

16 SEC. 2. Section 6450 of the Business and Professions Code,
17 as added by the 2nd text of Section 1 of Chapter 439 of the Statutes
18 of 2000, is amended to read:

19 6450. (a) "Paralegal" means a person who holds himself or
20 herself out to be a paralegal and who either contracts with or is
21 employed by an attorney, law firm, corporation, governmental
22 agency, or other entity and who performs substantial legal work
23 under the direction and supervision of an active member of the
24 State Bar of California, as defined in Section 6060, or an attorney
25 practicing law in the federal courts of this state, that has been
26 specifically delegated by the attorney to him or her. Tasks
27 performed by a paralegal include, but are not limited to, case
28 planning, development, and management; legal research;
29 interviewing clients; fact gathering and retrieving information;
30 drafting and analyzing legal documents; collecting, compiling,
31 and utilizing technical information to make an independent
32 decision and recommendation to the supervising attorney; and
33 representing clients before a state or federal administrative agency
34 if that representation is permitted by statute, court rule, or
35 administrative rule or regulation.

36 (b) Neither the term "paralegal" nor any provisions of this
37 chapter shall apply to any of the following persons while
38 performing the described tasks in the employ of a lawyer or law
39 firm and under the direction and supervision of an active member
40 of the State Bar of California:

(1) “Law clerk,” who is hereby defined as including any person not licensed to practice law in California who is performing law-related work while employed by a lawyer or law firm and who meets one of the following:

(A) Is currently or was during the preceding 12 months enrolled in a law school accredited by the American Bar Association, the State Bar of California, or an equivalent body in any jurisdiction where legal business is conducted in English.

(B) Has graduated from a law school as defined in subparagraph (A) during the preceding 12 months or is currently registered to take the bar examination in any state within one year.

(C) Is licensed to practice law in any jurisdiction other than California.

(2) “Legislative advocate,” who is hereby defined as including any person engaged in legislative advocacy or related activities.

~~(3) “Law librarian,” who is hereby defined as including any~~
Any person whose primary function is to ~~serve as a librarian~~
perform library services for a law firm or law library and who performs legal *reference or* research or related fact gathering in the course of that primary employment.

(4) “Case clerk,” who is hereby defined as including any person who works for a lawyer or law firm performing law-related work that primarily consists of file management.

(5) Other persons, including, but not limited to, secretaries, messengers, investigators, and like positions, who, while in full-time employment by a law firm or by an active member of the State Bar of California, perform, in a capacity other than as a paralegal, incidental paralegal work as described in subdivision (a) of this section. “Incidental,” for purposes of this paragraph, means that paralegal work does not consume more than 15 percent of that person’s monthly work assignment hours.

(c) Notwithstanding subdivision (a), a paralegal shall not do the following:

(1) Provide legal advice.

(2) Represent a client in court.

(3) Select, explain, draft, or recommend the use of any legal document to or for any person other than the attorney who directs and supervises the paralegal.

(4) Act as a runner or capper, as defined in Sections 6151 and 6152.

1 (5) Engage in conduct that constitutes the unlawful practice of
2 law.

3 (6) Contract with, or be employed by, a natural person other
4 than an attorney to perform paralegal services.

5 (7) In connection with providing paralegal services, induce a
6 person to make an investment, purchase a financial product or
7 service, or enter a transaction from which income or profit, or
8 both, purportedly may be derived.

9 (8) Establish the fees to charge a client for the services the
10 paralegal performs, which shall be established by the attorney who
11 supervises the paralegal's work. This paragraph does not apply to
12 fees charged by a paralegal in a contract to provide paralegal
13 services to an attorney, law firm, corporation, governmental
14 agency, or other entity as provided in subdivision (a).

15 (d) A paralegal shall possess at least one of the following:

16 (1) A certificate of completion of a paralegal program
17 approved by the American Bar Association.

18 (2) A certificate of completion of a paralegal program at, or a
19 degree from, a postsecondary institution that requires the
20 successful completion of a minimum of 24 semester, or equivalent,
21 units in law-related courses and that has been accredited by a
22 national or regional accrediting organization or approved by the
23 Bureau for Private Postsecondary and Vocational Education.

24 (3) A baccalaureate degree or an advanced degree in any
25 subject, a minimum of one year of law-related experience under
26 the supervision of an attorney who has been an active member of
27 the State Bar of California for at least the preceding three years or
28 who has practiced in the federal courts of this state for at least the
29 preceding three years, and a written declaration from this attorney
30 stating that the person is qualified to perform paralegal tasks.

31 (4) A high school diploma or general equivalency diploma, a
32 minimum of three years of law-related experience under the
33 supervision of an attorney who has been an active member of the
34 State Bar of California for at least the preceding three years or who
35 has practiced in the federal courts of this state for at least the
36 preceding three years, and a written declaration from this attorney
37 stating that the person is qualified to perform paralegal tasks. This
38 experience and training shall be completed no later than December
39 31, 2003.

1 (e) All paralegals shall be required to certify completion every
2 three years of four hours of mandatory continuing legal education
3 in legal ethics. All continuing legal education courses shall meet
4 the requirements of Section 6070. Every two years, all paralegals
5 shall be required to certify completion of four hours of mandatory
6 continuing education in either general law or in a specialized area
7 of law. Certification of these continuing education requirements
8 shall be made with the paralegal's supervising attorney. The
9 paralegal shall be responsible for keeping a record of the
10 paralegal's certifications.

11 (f) A paralegal does not include a nonlawyer who provides
12 legal services directly to members of the public, or a legal
13 document assistant or unlawful detainer assistant as defined in
14 Section 6400, unless the person is a person described in
15 subdivisions (a) and (b).

16 (g) This section shall become operative on January 1, 2004.

17 SEC. 2. Section 6451 of the Business and Professions Code
18 is amended to read:

19 6451. It is unlawful for a paralegal to perform any services for
20 a consumer except as performed under the direction and
21 supervision of the attorney, law firm, corporation, government
22 agency, or other entity that employs or contracts with the paralegal.
23 Nothing in this chapter shall prohibit a paralegal who is employed
24 by an attorney, law firm, governmental agency, or other entity
25 from providing services to a consumer served by one of these
26 entities if those services are specifically allowed by statute, case
27 law, court rule, or federal or state administrative rule or regulation.
28 "Consumer" means a natural person, firm, association,
29 organization, partnership, business trust, corporation, or public
30 entity.

